

OBP 50/1.1.2-C

NOV 08 2012



**U.S. Customs and
Border Protection**

MEMORANDUM FOR: All Chief Patrol Agents
All Division Chiefs (b)(6); (b)(7)(C)
(b)(6); (b)(7)(C)
FROM: (b)(6); (b)(7)(C)
Chief
U.S. Border Patrol
SUBJECT: Guidance on Noncompliant Motorists Encountered
at U.S. Border Patrol Checkpoints

U.S. Border Patrol agents, while carrying out the mission of securing our Nation's borders, come into contact with millions of motorists each year at immigration checkpoints. The majority of motorists traverse these checkpoints on a daily basis without incident. Noncompliant motorists are an exception and can pose unique challenges. It is imperative that agents performing and supervising checkpoint operations know, understand, and are able to articulate their authorities and options when encountering noncompliant motorists.

Noncompliant motorists at checkpoints do not deprive U.S. Border Patrol agents of their authority or responsibility to conduct searches and immigration inspections. At immigration checkpoints, agents may question drivers and passengers about their citizenship and right to be in the United States. They may also request a traveler's immigration documents, permit canine sniffs, tap exterior compartments, and make plain-view observations.

When a motorist stops and refuses to roll down windows or to answer questions, a range of enforcement options remain available. If the agent has concerns about whether the motorist or his passengers are legally present in the United States, the agent should advise the driver that he will not be permitted to proceed until he answers the agent's questions. (b)(6)&(b)(7)(C)

(b)(6)&(b)(7)(C), he or she may be detained for a reasonable period of time to determine the vehicle occupants' legal U.S. presence. Generally, courts have deemed that three- to five-minute secondary inspections are reasonable. Detentions exceeding this general time frame may be viewed as reasonable when a motorist's uncooperative actions are the reason for extending the detention.

If an individual is (b)(7)(E) solely for a non-immigration purpose, such as a possible narcotics offense, the (b)(7)(E) must be based on reasonable suspicion of criminal wrongdoing. Once an agent establishes a motorist's lawful U.S. presence and no reasonable suspicion of criminal wrongdoing exists, (b)(7)(E) is unwarranted and immediate release is appropriate.

(b)(6)&(b)(7)(C) [REDACTED], and the agent either remains unconvinced of any of the vehicle occupant's legal presence in the United States or possesses reasonable suspicion of criminal wrongdoing, the agent should advise the motorist that he or she is creating a potential safety hazard (b)(7)(E) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(b)(7)(E) [REDACTED]
[REDACTED] All force should not exceed what could be considered reasonable and prudent to the situation. Force should be used as a last resort, after other reasonable steps to gain the driver's cooperation have failed. (b)(7)(E) [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] Checkpoints should be equipped appropriately to conduct such actions.

If it appears that an uncooperative motorist is legally present in the United States, enforcement discretion may dictate that the motorist should be allowed to proceed without further delay. An agent who is unsure of how to proceed in a situation should immediately consult his or her immediate supervisor. (b)(7)(E) [REDACTED]
[REDACTED]

Attached is pertinent reference material with which all Border Patrol agents should be familiar. I recommend all agents – especially those working at checkpoints – carry copies of the attached reference material: *Authority of Border Patrol Agents at Immigration Checkpoints*. It will help reinforce their knowledge of the authorities granted to them while discharging their duties.

I expect all U.S. Border Patrol agents to be professional and courteous while carrying out their duties. It is extremely important to be aware of how their actions may be perceived, especially in an increasingly digital age when instant messaging and streaming video is common practice. I would highly encourage agents to perform as if each of their actions were being captured on video and subjected to scrutiny. Most noncompliant motorist actions are focused on inciting argument with the agents involved. Though all agents should know, understand, and be able to articulate their authorities, agents are under no obligation to respond to a noncompliant motorist's requests to cite such authorities. Regardless of which options are exercised in these matters, it is vital that we conduct our duties in a consistent, objective, and professional manner.

Attachment

Authority of Border Patrol Agents at Immigration Checkpoints

1. Section 287 of the INA gives Border Patrol Agents (BPAs) the authority to, within a reasonable distance of the border, board and search for aliens in any vehicle. Reasonable distance defined as 100 air miles from the border.
2. Section 287 also authorizes BPAs to interrogate any alien or person believed to be an alien as to their right to be or remain in the U.S.
3. INA § 287(b) allows BPAs, subject to constitutional limits, to “take and consider evidence concerning the privilege of any person to enter, reenter, pass through or reside in the United States, or concerning any matter which is material and relevant to the enforcement of [the Immigration and Nationality Act] and the administration of [the agency].”
4. The Supreme Court in Martinez-Fuerte held that immigration checkpoints are Constitutional even in the absence of reasonable or individualized suspicion
 - Thus, BPAs may ask individuals about their citizenship and request documents proving their right to be in the U.S.
 - BPAs cannot conduct a search of the vehicle and its occupants at an immigration checkpoint without probable cause, consent, or unless a Fourth Amendment exception applies.
5. Although individuals are not required to produce identification, §(b)(7)(E)
[REDACTED]
[REDACTED]
 - BPAs may use the reasonable force necessary to move uncooperative individuals into secondary if they refuse to do so
 - Investigative detention must end once the BPA has determined that the individual has a right to be in the U.S. unless there is reasonable suspicion of other criminality
6. (b)(7)(E)
[REDACTED]
[REDACTED]
7. Limited criminal liability for uncooperative individuals
 - 18 U.S.C. § 758 allows for criminal penalty and a fine for fleeing or evading a checkpoint in excess of the legal speed limit.
 - 18 U.S.C. § 111 provides criminal prosecution for assault upon a federal officer while engaged in performance of official duties.
8. 19 U.S.C. § 1581 provides for an administrative penalty from \$1,000 to \$5,000 for failure to stop at command.

(b)(7)(E)



U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

Memorandum

OBP 50/8b-P

DEC 3 0 2003

MEMORANDUM FOR: ALL SECTOR CHIEF PATROL AGENTS

FROM:

(b)(6); (b)(7)(C)

Chief

U.S. Border Patrol

SUBJECT: Border Patrol Traffic Checkpoint Policy

The attached U.S. Customs and Border Protection Directive applies to all Border Patrol checkpoints and sets minimum standards for their operation. With the enhanced vigilance for terrorists and weapons of terrorism, including weapons of mass destruction, the unique capability of Border Patrol Agents and the exercise of their authority at checkpoints are imperative to homeland security. National policies governing checkpoint operations will ensure consistency in enforcement along our borders.

The directive supersedes all previous policies. This directive should be implemented within 30 days of the date of the memorandum.

Staff may direct questions concerning this policy to Assistant Chief (b)(6); (b)(7)(C) at (b)(6); (b)(7)(C)

Attachment

U.S. CUSTOMS AND BORDER PROTECTION
Department of Homeland Security

Memorandum

OBP 50/8b-P

NOV - 3 2003

MEMORANDUM FOR: COMMISSIONER (b)(6); (b)(7)(C)

FROM:

(b)(6); (b)(7)(C)

Chief

Office of Border Patrol

SUBJECT: Border Patrol Checkpoint Directive

Attached is a proposed U.S. Customs and Border Protection (CBP) directive governing Border Patrol checkpoint operations for your review and approval.

The Office of Border Patrol established a working group to review current Border Patrol checkpoint operations and to forward recommendations for improvements. This review process determined that national policies governing checkpoints needed to be updated to reflect our priority mission of antiterrorism within CBP as well as technology advancements.

The attached directive addresses the critical need of checkpoint operations as they maximize the Border Patrol's mission in securing the Nation's borders against terrorists, smugglers of weapons of terror, other contraband, and illegal aliens. The directive will ensure consistency in checkpoint operations and enforcement nationwide. It fosters communication and intelligence sharing throughout CBP. This directive provides standards for existing checkpoints as well as guidelines for establishing additional checkpoints in the future.

My staff and I are available to provide additional information or answer questions if requested.

(b)(6); (b)(7)(C)

Approved: _____

(b)(6); (b)(7)(C)

Disapproved: _____

Let's Discuss: _____

Attachment

U.S. CUSTOMS AND BORDER PROTECTION

CBP DIRECTIVE NO.

DATE:

ORIGINATING OFFICE:

SUPERSEDES:

REVIEW DATE:

SUBJECT: BORDER PATROL CHECKPOINT OPERATIONS AND GUIDELINES

1 PURPOSE. The purpose of this directive is to standardize and improve Border Patrol checkpoint operations.

2 POLICY.

2.1 It is the policy of U.S. Customs and Border Protection (CBP) to use Border Patrol checkpoints (b)(7)(E) where appropriate and thereby create deterrence to the initial illegal entry. Checkpoints greatly enhance the Border Patrol's ability to carry out the mission of securing the Nation's borders against terrorists, smugglers of weapons of terrorism, other contraband, and illegal aliens. Checkpoints are an integral part of the border enforcement strategy and provide a level of authority that is not replicated in any other enforcement tool outside the ports of entry.

2.2 This directive supplements the requirements as outlined in chapter 13 of the *Border Patrol Handbook* relating to operation of traffic checkpoints CBP's Office of Border Patrol. It is understood that the individual needs of each checkpoint will vary because of local conditions and differences in traffic flow.

2.3 Each Border Patrol sector shall be responsible for ensuring that the procedures and guidelines in this directive are followed.

2.4 Because of the nature of checkpoint enforcement operations and related national security issues, (b)(7)(E) sectors and stations are expected to maintain a liaison with local regulating agencies without compromising the security of the mission. (Refer to 18 U.S.C. 111, "Impeding a Federal Officer.")

2.5 Border Patrol Agents must be very familiar with, and strictly adhere to, the court decisions that apply to their area of operations. In addition, they must differentiate the parts of those decisions that apply to the stopping of vehicles to examine occupants from the parts that apply to the searching of those vehicles.

2.6 No person or vehicle is exempt from inspection procedures at Border Patrol checkpoints. T ci

2.7 Agents shall exclude themselves from the inspection process if a vehicle contains relatives or close friends.

CBP Form 232C (04/03)

~~FOR OFFICIAL USE ONLY~~

2.8 Agents will conduct themselves in a professional and courteous manner at all times.

2.9 All immigration checkpoints are now judicially regarded as interior enforcement operations. Therefore, the law regarding "border searches" or "extended border searches" does not apply to Border Patrol checkpoints. In addition, there is no longer any meaningful legal distinction between "permanent" and "temporary" immigration checkpoints.

2.10 Sector and station management may add requirements as needed for their specific operation but must comply with, at a minimum, the requirements as outlined in the *Border Patrol Handbook* and this directive.

3 DEFINITIONS.

3.1 The term "immigration checkpoint" includes any interior location at which vehicular immigration inspection occurs. The primary purpose of a checkpoint is to (b)(7)(E) s s thereby create deterrence to the initial illegal entry. Although currently the authority to inspect vehicular traffic for illegal aliens is the Border Patrol's primary objective, agents often encounter violators of other Federal and State laws.

3.2 For the purpose of this directive, the term "permanent checkpoint" refers to a checkpoint location that includes permanently constructed buildings, traffic control, and associated facilities without regard to hours of operation.

3.3 For the purpose of this directive, the term "Fixed/Tactical Checkpoint" refers to a

(b)(7)(E)

4 **AUTHORITY/REFERENCES.** Immigration and Nationality Act Section 287 (a) (8 U.S.C. Section 1357); *Border Patrol Handbook*; and chapter 13, *Manual of Uniformed Traffic Control Devices (MUTCD)*.

5 RESPONSIBILITIES.

5.1 The Commissioner of CBP shall have policy oversight regarding CBP-level policies and procedures.

5.2 Within CBP, the Chief, Office of Border Patrol, shall ensure that this directive is provided to and adhered to by all sectors.

5.3 Within the Border Patrol, Sector Chief Patrol Agents are responsible for the implementation of this directive.

5.4 The Border Patrol Academy and the Chief Patrol Agents are responsible for fully training Border Patrol Agents in proper traffic check and safety procedures. Agents shall be provided proper vehicle inspection and public interaction training during basic training in the Border Patrol Academy. When agents transfer to different stations that operate checkpoints, their previous checkpoint experience should be ascertained and additional training provided if necessary.

6 PROCEDURES.

6.1 General Location Selection. Selection of a traffic checkpoint location is considered by the courts in determining the legality of that checkpoint; judicial guidelines must be followed. In the selection of any site for a checkpoint, the following factors must be considered:

6.1.1 The site should be far enough from the border to avoid interfering with traffic in populated areas near the border. When appropriate, it should also be beyond the 25-mile zone in which border crossers are authorized to travel.

6.1.2 (b)(7)(E) [REDACTED] s [REDACTED].

6.1.3 (b)(7)(E) [REDACTED] t.

6.1.4 The site should be located on a stretch of highway compatible with safe operation.

6.1.5 Judicial rulings require that a checkpoint location be fixed at a particular site selected in advance by supervisors. (b)(7)(E) [REDACTED]

[REDACTED]
[REDACTED] s [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

6.1.6 New locations that include construction or land purchase not only should consider current needs but also should plan for future growth. (Reviewing a State's Department of Transportation 20-year traffic projections will assist in this planning process.)

6.1.7 Locations for new construction of permanent checkpoints should be selected and the checkpoints designed by sector staff in consultation with appropriate engineers, including State highway engineers.

6.1.8 (b)(7)(E) [REDACTED] s [REDACTED] n [REDACTED].

6.2 Minimum Required Facilities. Facilities required to operate a checkpoint vary with conditions and the volume of traffic. The minimum facilities required to operate any checkpoint are listed below.

6.2.1 (b)(7)(E)

s

6.2.2 (b)(7)(E)

s

6.2.3 Facilities with access to water and electricity (portable or permanent).

6.3 Required Vehicles. Adequate vehicles should be provided to include, at a minimum:

6.3.1 (b)(7)(E)

e

6.3.2 (b)(7)(E)

ld

6.4 Traffic Control. Traffic control shall be established using the most recent version of the MUTCD published by the Federal Highway Administration of the U.S. Department of Transportation. Under these guidelines, traffic control devices, such as signs, barricades, and lights, and the placement distances of such equipment will vary greatly depending on normal posted speed limits and traffic flow. (b)(7)(E) ordering information is available at (b)(7)(E) Rumble strips (strips of hard rubber placed across lanes to alert drivers to slow down) are authorized if allowed by State and local regulations.

6.5 Illumination. Lighting sufficient to safely illuminate the primary and secondary inspection areas is required. **Note:** Extreme caution must be exercised to ensure that drivers traveling in either direction are not blinded or their vision significantly impaired by the placement of these lights.

6.6 Communication Equipment. Communication equipment, such as a base radio and/or a mobile phone, shall be made available.

6.7 Recommended Inspection Equipment. The following inspection equipment is recommended (depending on local needs):

6.7.1 Vehicle jacks or lifts.

(b)(7)(E)

(b)(7)(E)

6.7.7 Other tools: hammers, screwdrivers, crowbars, wrenches, etc.

(b)(7)(E)

6.7.9 Scales for seized contraband.

6.8 Required Equipment. The following miscellaneous equipment is required at all locations.

6.8.1 First aid equipment.

6.8.2 Fire extinguisher.

6.8.3 Emergency flares.

6.8.4 Batteries (sufficient quantity for battery-powered lights).

6.8.5 Extra cones and lights for traffic control.

6.9 Physical Arrangements. Following are requirements for the physical arrangements of checkpoints:

6.9.1 All checkpoints must comply with traffic control guidelines as established using the latest version of the MUTCD as stated under "Traffic Control." The physical arrangement of any checkpoint must minimize the risk of an accident or an injury to any agent or member of the public. Non-traffic-control equipment should be kept a safe distance from any right-of-way or throughway.

6.9.2 The checkpoint site selected shall provide ample parking space for buses, trucks, and other vehicles pulled off for further questioning of occupants. This parking space

(b)(7)(E)

6.10 Personnel. Personnel and staffing levels required for optimal operation of a checkpoint should be reviewed each year. Staffing needs will vary dramatically from

location to location, and it is nearly impossible to adopt a "one size fits all" approach. Issues affecting personnel include, but are not limited to:

(b)(7)(E)

6.10.2 Type and volume of traffic (commercial trucks v. passenger cars).

(b)(7)(E)

6.10.4 Terrain.

(b)(7)(E)

6.10.6 Local agreements between union and management.

6.11 Minimum Recommended Number of Agents. A minimum of (b)(7)(E) are recommended to operate a single lane checkpoint, as follows:

(b)(7)(E)

6.12 Additional Agents Needed. Additional agents are required to operate

(b)(7)(E)

6.13 Safety Procedures. The safe operation of traffic checkpoints is of the utmost importance. Neither agents nor the traveling public should be subjected to hazards beyond those that are inherent in any Border Patrol operation or in any other activity involving moving vehicles. Agents should adhere to the following safety procedures:

6.13.1 To the extent possible, protection from the natural elements shall be furnished for agents, canines, and detainees.

6.13.2 Whether agents are using a stoplight or hand signals, motorists must be clearly aware that they will be required to stop. If red and green lights are used at the stopping point, they should be highly visible.

6.13.3 When an agent is working in the primary inspection area, he or she should be (b)(7)(E) and equipment should not be placed in an area that would interfere with the free movement of the inspecting agent. As vehicles

come to a s (b)(7)(E) If
si

6.13.4 After vehicles have stopped, agents should identify themselves as Border Patrol Agents and announce that they are performing an immigration inspection. Anytime the

(b)(7)(E)

(b)(7)(E)

6.13.6 Buses to be inspected (b)(7)(E) Upon boarding a bus, an agent should get the attention of the passengers by identifying himself or herself and stating the purpose of the stop. Passengers should be checked as rapidly as possible. If passengers are taken into custody, it should be done with as little disruption as possible; any baggage must be secured and the driver requested to revalidate the passengers' tickets.

(b)(7)(E)

6.13.8 Operations should be suspended if conditions become such that either the Border Patrol Agents or the traveling public are in danger of being injured through an accident. A conscientious appraisal must be made as to whether operations should be discontinued. Error should be on the side of caution. It is better to suspend traffic check operations than to continue under conditions that could result in an accident or an injury. The decision as to whether traffic check operations should be terminated rests with the Chief Patrol Agents but may be delegated to Patrol Agents in Charge of the station or the supervisory Patrol Agents in charge of the shift. If these agents cannot be contacted, the senior agent in charge of the checkpoint operations shall make the decision. Examples of such conditions include:

(b)(7)(E)

6.14 Intelligence Sharing. The Chief Patrol Agent of each sector or his delegate is responsible for ensuring that any information that may affect operations at another sector, station, or checkpoint or a port of entry is disseminated in real time to the

appropriate parties, including, if appropriate, the Office of Field Operations or the CBP Situation Room. Such information includes, but is not limited to, the following:

(b)(7)(E)

6.15 Canine Program. All canine operations shall be in accordance with service canine policy. To the extent practical, checkpoints with canine operations should make extra effort to ensure that adequate shade is provided in areas where the canine will be working, thereby increasing the inspection capability of the canine.

6.16 Assistance at Accidents. Procedures for providing assistance at accidents are as follows:

6.16.1 The Border Patrol recognizes a moral obligation to render assistance at motor vehicle accidents if other emergency services are not present. In all cases, the appropriate law enforcement agency must be summoned immediately. The extent of any action is governed by the exigencies of the situation. Generally, appropriate steps include the following:

6.16.1.1 First aid to any injured parties.

6.16.1.2 Traffic control.

6.16.1.3 Other assistance that can be rendered to other agencies.

6.16.2 All pertinent information should be furnished to the other agencies upon notification. This should include, at a minimum, the seriousness of injuries, possible deaths, number of victims, and any obstruction of traffic lanes.

6.16.3 Agents should not move corpses without being directed by the coroner or another competent authority having jurisdiction unless it is absolutely necessary.

6.17 Statistical Data Recording. Each sector (or, at the discretion of the Sector Chief Patrol Agent, each checkpoint station) shall maintain records and statistics, including, at a minimum, the following:

(b)(7)(E)

6.17.3 Arrests of illegal aliens at primary or secondary inspection at the checkpoint.

(b)(7)(E)

6.17.5 Narcotics seizures.

6.17.6 Arrests for any outstanding warrant.

(b)(7)(E)

6.17.8 Vehicle accidents that occur within the traffic control area of the checkpoint.

6.17.9 Failure to yield for checkpoint and flight from checkpoint.

6.17.10 Formal complaints.

(b)(7)(E)

6.18 Complaints. Complaints from the public should be addressed immediately, in person and by a supervisor whenever possible. Official complaints shall be handled in accordance with current service policy.

6.19 Non-CBP Law Enforcement Agencies at Checkpoints. Other law enforcement agencies may perform their duties while at Border Patrol checkpoints in accordance with the following guidelines:

6.19.1 Border Patrol Agents must continually remain the controlling law enforcement officers at Border Patrol checkpoints.

(b)(7)(E)

6.19.3 Any non-CBP law enforcement agency conducting ongoing law enforcement duties at a Border Patrol checkpoint must have stand-alone authority to conduct checkpoint operations for the specific purpose for which enforcement is being conducted.

6.19.4 Other non-CBP law enforcement agencies may perform their duties at Border Patrol checkpoints when specifically requested by Border Patrol Agents upon discovering a violation of law over which the non-CBP agencies have primary jurisdiction.

7 New Construction of Permanent Checkpoints.

7.1 Facilities. New or planned construction of permanent checkpoints should include the following minimum facilities:

(b)(7)(E)

(b)(7)(E)

(b)(7)(E)

7.2 The process for designing all temporary and permanent buildings and or equipment should consider all normal office and personnel issues associated with any station or office.

7.3 Design must ensure expansion possibilities in relation to 20-year State traffic projections.

7.4 Approach and Inspection Area. The approach and inspection area of all new or planned construction of permanent checkpoints should include, at a minimum, the following:

(b)(7)(E)

(b)(7)(E)

8 Optimal Equipment. A thorough and efficient inspection requires the proper equipment. The following list of equipment is recommended to facilitate an efficient inspection and maintain traffic flow. This list is provided as a planning guide and does not constitute any equipment requirements.

(b)(7)(E)

8.2 Computers with server access to all necessary records checks, including

(b)(7)(E)

8.3 Phone lines.

(b)(7)(E)

8.5 (b)(7)(E)

8.5.1 (b)(7)(E)

8.5.2 (b)(7)(E)

8.5.3 (b)(7)(E)

(b)(7)(E)

(b)(7)(E)

8.7 (b)(7)(E)

8.8 License plate readers.

8.9 (b)(7)(E).

8.10 (b)(7)(E).

8.11 Laser distance measurement tool.

8.12 (b)(7)(E): [REDACTED]
[REDACTED].

(b)(7)(E)

8.14 (b)(7)(E).

8.15 Vehicle lifts.

8.16 Truck scales.

8.17 Observation platforms.

(b)(7)(E)

8.19 Forklift.

8.20 Pallet jacks.

8.21 Tire changer.

8.22 Air compressor.

8.23 General assorted pneumatic and handtools.

(b)(7)(E)

8.25 Scales for contraband.

8.26 Money counters.

8.27 Appropriate safety equipment to meet standards set by the Occupational Safety and Health Administration and by this directive.

8.28 Red and green lights controlled by agent at primary.

8.29 Programmable public relations sign for exit.

9 NO PRIVATE RIGHTS CREATED. This document is an internal CBP policy statement and does not create or confer any rights, privileges, or benefits on any person or party.

(b)(6); (b)(7)(C)

Commissioner
U.S. Customs and Border Protection

(b)(7)(E)

JAN 29 2013



U.S. Customs and
Border Protection

MEMORANDUM FOR: Command Staff
Patrol Agents in Charge
Unit Supervisors
Tucson Sector

FROM:

(b)(6); (b)(7)(C)

Acting Chief Patrol Agent

SUBJECT: Tucson Sector Radiation Detection Program Directive

This directive outlines the Tucson Sector (TCA) Radiation Detection Program in accordance with the attached U.S. Customs and Border Protection (CBP) directive (b)(7)(E), and supersedes the TCA directive dated March 13, 2009. This Directive outlines procedures specific to TCA.

In addition to ensuring that agents are aware of the existing policy and directives in accordance with radiation detection, a number of additional measures are being taken to ensure that all CBP Radiation Detection Program protocols and directives are being consistently and perpetually implemented, including:

- Stations are responsible for ensuring implementation and compliance with both the TCA and national directives. Stations must confirm that the annual Virtual Learning Course, Radiation Safety Refresher training (b)(7)(E) has been completed;
- CBP and TCA Radiation Detection Program Directives and policies shall be posted or made readily accessible at each station and designated checkpoints;

(b)(7)(E)

In accordance with CBP Directive (b)(7)(E), agents are to be reminded of the following:

(b)(7)(E)

Tucson Sector Radiation Detection Program Directive

Page 2

- Agents will notify a supervisor of all radiation alerts in accordance with procedures outlined in CBP Directive (b)(7)(E).
- PRD batteries will be replaced as necessary.

In addition to this directive, Checkpoint Compliance Evaluations will be completed by TCA at each checkpoint as necessary to identify both deficiencies and best practices. Stations are encouraged to conduct internal evaluations of their Radiation Detection Program, utilization of the attached PRD Operational Checklist, and PRD Operational Log is recommended to ensure accountability and compliance.

Questions may be directed to TCA Policy and Compliance Director, (b)(6); (b)(7)(C) at (b)(6); (b)(7)(C).

Attachments

(b)(7)(E)

3. All radiation detection alerts at all Border Patrol Checkpoints must be resolved as per

(b)(7)(E)

March 25, 2011. (Attached)

(b)(7)(E)

By signing, I acknowledge that I have read and understand the procedures outlined on the PRD Operational Checklist.

[illegible]

PRD Operational Log*

CUSTOMS AND BORDER PROTECTION DIRECTIVE

CBP DIRECTIVE NO. 5290-015A

DATE: March 25, 2011

ORIGINATING OFFICE: OIOC:IMOC

SUPERSEDES: 5290-015, 12/24/03

REVIEW DATE: March 2014

SUBJECT: U.S. CUSTOMS AND BORDER PROTECTION RADIATION DETECTION PROGRAM DIRECTIVE

1 PURPOSE. To provide guidance for the U.S. Customs and Border Protection (CBP) Radiation Detection Program, which is designed to detect and prevent illicit radioactive materials from entering the United States or from being moved away from the border areas within the United States.

2 POLICY.

2.1 It is the policy of CBP to thwart the operations of terrorist organizations by detecting, disrupting, and preventing the cross-border travel of terrorists, terrorist funding, and terrorist implements, including Weapons of Mass Destruction (WMD) and their precursors.

2.2 This Directive sets forth the policy for the Radiation Detection Program. Additional local procedures may be issued to augment the procedures contained within; however, local procedures may not be inconsistent with or detract from the instructions contained in this Directive. The Assistant Commissioner of the Office of Field Operations; the Chief of the Office of Border Patrol; or the Assistant Commissioner of the Office of CBP Air and Marine or their designated appointee, must approve all local procedures for their respective organizations.

2.3 No officers or agents will operate radiation detection equipment prior to completing Office of Training and Development (OTD) approved training.

2.4 Personal Radiation Detectors (PRD) will be issued to all CBP officers at primary and secondary inspection locations within Ports of Entry; as well as operations at designated checkpoints to all Border Patrol agents conducting primary and secondary checkpoint operations as well as patrol operations and operations at designated chokepoints (when PRDs are available) and to all Air and Marine interdiction agents (if PRDs are available).

2.5 All CBP officers/agents who have been issued a PRD are required to carry it while performing the activities mentioned in section 2.4 and ensure that it is activated, except while in proximity to operating x-ray or gamma ray based inspection devices. The PRDs must be worn towards the front of the duty belt in order to maximize the detector's sensitivity.

2.6 Seizure of contaminated articles should be considered a last resort due to the expense and complexity of storage and disposition. In most cases, the immediate exportation of the contaminated articles directly back to the manufacturer and country of origin is the most desirable outcome. Situations that involve seizure associated with radiation detection shall be

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conducted according to the terms of this directive. In the event, a seizure is required, seizure will be conducted based on probable cause of a violation of law that CBP is authorized to enforce.

3 DEFINITIONS.

3.1 For the purpose of this document:

3.1.1 "Officer/Agent" will refer to CBP personnel who utilize radiation detection equipment while performing inspections at Ports of Entry, Border Patrol (BP) operations and the maritime environment, including CBP officers, Border Patrol agents, Air & Marine interdiction agents, agriculture specialists, and Laboratories and Scientific Services (LSS) personnel.

3.1.2 "Primary" is defined as the initial point of contact with a person, conveyance, or shipment.

3.1.3 "Secondary" is designated as an area where further examination may be conducted.

3.1.4 "Alert/Alarm" is the occasion at which radiation detection *is first* perceived to exceed normal levels.

3.1.5 "Locate" is the process of finding a radiation source by searching or examining.

3.1.6 "Identification" is the process of finding the origin, nature, or elemental isotopes of a radiation source.

3.1.7 "Radiation Detection Program" includes the policies and procedures outlined in this Directive.

3.2 Radiation detection equipment relevant to this Directive includes:

3.2.1 Personal Radiation Detector (PRD), which is a small, self-contained safety device worn on the officer/agent belt and used for detecting radiation.

3.2.2 Radiation Portal Monitor (RPM), which is a large fixed system, or mobile system used to detect gamma and neutron radiation.

3.2.3 Radiation Isotope Identification Device (RIID), which is a handheld device used for detecting and locating a radiation source and identifying the specific isotope encountered. It is capable of transferring the spectral information to offsite technical experts via computerized data transfer.

4 AUTHORITY / REFERENCES. (b)(7)(E)

(b)(7)(E)



5 RESPONSIBILITIES.

5.1 The Commissioner has overall responsibility for establishing policy and overseeing all aspects of the Radiation Detection Program.

5.2 The Assistant Commissioner of the Office of Intelligence and Operations Coordination is responsible for ensuring the policy and protocols are developed and reviewed within the Radiation Detection Program and this Directive is provided and adhered to by all relevant CBP Offices.

5.2.1 The Director of Office of Incident Management and Operations Coordination (IMOC), is responsible for coordinating the Radiation Detection Program and promoting cooperation among the relevant CBP Offices.

5.3 The Assistant Commissioner of the Office of Field Operations (OFO) will ensure that this Directive is provided and adhered to by all Field Operations Offices.

5.3.1 Within OFO, the Directors of Field Operations are responsible for the implementation of this Directive at all Ports of Entry.

5.3.2 CBP officers will be responsible for resolving all alarms from radiation detection equipment at Ports of Entry and working with LSS to determine whether the radiation source that has been detected is legitimate or illicit.

5.4 The Chief of the Office of Border Patrol (OBP) will ensure that this Directive is provided and adhered to by all Sectors.

5.4.1 Within OBP, the Chief Patrol Agents are responsible for the implementation of this Directive during Border Patrol operations.

5.4.2 Border Patrol agents will be responsible for resolving, to the extent of their legal authority to do so, alarms from radiation detection equipment within their control during Border Patrol operations.

5.5 The Assistant Commissioner of the Office of Air & Marine (CBP A&M) will ensure that this Directive is provided and adhered to by all aviation and marine branches and units.

5.5.1 Within CBP A&M, the Directors of Air Operations, and Directors of Marine Operations are responsible for the implementation of this Directive at all Ports of Entry.

5.5.2 CBP A&M agents will be responsible for resolving, to the extent of their legal authority to do so, all alarms from radiation detection equipment and determining whether the radiation source that has been detected is legitimate or illicit.

5.6 The Assistant Commissioner of the Office of Training and Development (OTD) will ensure that training curricula for the Radiation Detection Program are in place.

5.6.1 Within OTD, the Academies are responsible for training new CBP personnel in the proper use of radiation detection equipment. OTD is also responsible for the review of all radiation training materials, the development of new radiation-related training, coordination/delivery of attrition and refresher training, and auditing of radiation training. The OTD will coordinate with all offices referenced in this Directive to ensure relevancy and accuracy of the training. Any legal portions of any such training will be subject to review, and approval, by the Office of the Chief Counsel.

5.7 The Assistant Commissioner of the Office of Information and Technology (OIT) will provide computer support, data maintenance, and all related scientific and technical support associated with the Radiation Detection Program.

5.7.1 Within OIT, the Executive Director of Laboratories and Scientific Services (LSS)/Information and Technology Branch (ITB) will be responsible for working within the DHS acquisition, installation, and maintenance service processes for CBP radiation detection equipment. ITB will also provide enhancements when technological advancements warrant.

5.7.2 Within OIT, the Director of Enforcement Technology Program (ETP) will be responsible for providing maintenance guidance to all CBP officers or agents using radiation detection systems in the field. In the event the device cannot be restored to full operation through telephonic instruction, a technician will be dispatched to resolve the issue. In the case of hand held radiation detection equipment, the unit will be shipped to ETP via traceable means – requesting maintenance (including a brief description of the malfunction). A loaner unit will be provided if necessary.

5.7.3 Within OIT, the Technology Training and Support Program (TTSP) Office, in conjunction with the OTD, will provide some training for radiation detection and other NII systems. TTSP will provide instructional materials updates and modifications based on technological advancements implemented by ETP.

5.7.4 Within OIT, the Executive Director of LSS, will ensure that field personnel are provided with guidance and technical assistance to resolve radiation detection alerts. LSS will also coordinate additional response assets if elevated response capabilities are deemed necessary. LSS will provide OTD approved training related to technical training requirements.

6 PROCEDURES.

6.1 OPERATING PROCEDURES

6.1.1 Radiation detection equipment will be operated in accordance with the manufacturers' operating manual and established CBP training procedures.

6.1.2 CBP officers or agents must contact LSS and verify the Nuclear Regulatory Commission (NRC) licensing/shipper information for the circumstances listed in this section. LSS will be contacted by calling the 24-hour National Law Enforcement Communications Center (b)(7)(E) emergency number at (b)(7)(E)

6.1.2.1 For all special nuclear material (SNM) or neutron alarms encountered,

6.1.2.2 For all passengers in possession of radioactive materials (excluding persons with recent medical treatments) in the port passenger environment,

6.1.2.3 For commercial import/export of industrial isotopes:

- high risk shipments as identified by ATS,
- available intelligence or prior history of violations or discrepancies,
- suspicious imports/exports that may pose a national security threat,
- first time importers/exporters,
- unsure of the nature of the isotopes encountered,

6.1.2.4 To determine whether a commercial importer or traveler possessing industrial radiological material has a sufficient quantity to require licensing by the NRC or one of the NRC approved agreement states.

6.1.3 In the event that OBP or A&M contacts LSS for any of the reasons outlined in section 6.1.2, and if LSS is unable to make the contacts necessary to verify the NRC licensing/shipper information within a reasonable period of time, then OBP or A&M shall document the incident including (1) that OBP or A&M has detected a radiation alert and attempted to obtain NRC licensing/shipper information for the reason described in 6.1.2 applicable to the situation; (2) that OBP or A&M was unable to verify the NRC licensing/shipper information in a timely manner; and (3) that OBP or A&M requested LSS make follow-up contact with the appropriate authority as soon as possible. If a third-party agency contacts OBP or A&M during the stop and requests that CBP hold the source of the radiation alert under the authority of the third-party entity, then CBP may comply with this request. If the third-party entity does not request CBP to hold the source of the radiation alert under the authority of the third-party entity, and if all other immigration and law-enforcement concerns have been resolved, then CBP shall release the source of the radiation alert.

6.1.4 All operational offices conducting radiation detection activities within this Directive will develop additional protocols to encompass any operationally specific enforcement measures performed within their offices that are not covered within this Directive. These additional protocols will not contradict this Directive. The Assistant Commissioner of the Office of Field Operations, the Chief of the Office of Border Patrol or the Assistant Commissioner of the A&M or their designated appointee, must approve all changes to local protocols for their respective organizations and coordinate additional protocols with all other affected CBP offices.

6.2 RESPONSE PROCEDURES - GENERAL

6.2.1 Ports of Entry:

6.2.1.1 All radiation detection alerts at Ports of Entry must be resolved. Officers must determine if the radiation source is legitimate or illicit. This determination may be made in consultation with LSS.

6.2.1.2 Alerts encountered in Primary will be referred to Secondary. Officers who refer a conveyance or person to Secondary will report the radiation alert to their supervisor or Secondary inspection officer. In making this report, officers must be specific as to the type of radiation detected (Gamma or Neutron).

6.2.1.3 At Secondary, officers will use radiation detection equipment to locate and identify the source of the radiation alert. The officer will establish a safety perimeter when necessary (see 6.4.2) not to exceed 2mR/h (or an "8" on the PRD), identify the radiation source, and implement the appropriate radiation response procedures.

6.2.2 Between the Ports of Entry Operations:

6.2.2.1 General:

6.2.2.1.1 If (1) an agent is conducting a vehicle stop in the course of roving patrol or other authorized operations; (2) a radiation alert occurs before the vehicle stop is completed, and (3) the radiation alert creates reasonable suspicion of criminal activity by indicating the existence of an unusual or potentially dangerous level of radiation, or otherwise, the agent may continue to detain the source of the radiation alert so that the source may be localized and identified through a limited investigation into the basis and nature of the alert. A safety perimeter will be established (see 6.4.2) and the appropriate radiation response procedures will be implemented.

6.2.2.1.2 This policy does not preclude a search of any conveyance or property (depending on the circumstances) that is otherwise lawful, such as a search incident to arrest, an inventory search, a lawful border search, a search pursuant to probable cause, or a search pursuant to a warrant. In addition, upon reasonable suspicion that an occupant of the conveyance is dangerous and may gain immediate control of a weapon, a protective sweep of the passenger compartment of the vehicle may also be authorized and appropriate. However, depending upon the circumstances presented, for safety and other reasons it may instead be advisable to resolve officer and public safety concerns by moving all persons, including Border Patrol agents or Air and Marine interdiction agents, to a safe distance from the vehicle (per safety perimeter instruction in section 6.4.2).

6.2.2.1.3 Agents will report radiation alerts to their supervisor. In making this report, agents must specify the type of radiation detected (Gamma or Neutron), when the radiation was detected and at what location it was detected. Any neutron alarm must be reported to their supervisor. Gamma alarms that have been determined to be unresolved or requiring NRC license verification and all neutron alarms will be reported to LSS (see 6.5.1) for additional assistance to resolve the alarm.

6.2.2.2 Checkpoints: All radiation detection alerts at operational Border Patrol checkpoints must be resolved, to the extent of CBP's legal authority to do so, by determining if the radiation source is legitimate or illicit.

6.2.2.2.1 Conveyances in Primary generating further inspection will be referred to Secondary to resolve potential dangers.

6.2.2.2.2 At Secondary, during the course of this immigration inspection, agents will attempt to verify the radiation alert detected at Primary. Upon verification, agents will advise the driver and any passenger(s) of the radiation alert, inquire whether the driver and any passengers are aware of any reason for the alert, and ask for consent to search the conveyance for the radiation source. If consent is granted, agents will use radiation detection equipment to isolate and locate the radiation source within the conveyance (Note: for easier localization of the source, the individuals should exit and step away from the vehicle). The agents will also establish a safety perimeter (see 6.4.2), identify the radiation source, and implement the appropriate radiation response procedures.

6.2.2.2.3 If consent is not granted, the agents will conduct a non-intrusive check using radiation detection equipment (do not open or enter the conveyance). The agents will establish a safety perimeter (see 6.4.2), identify the radiation source, and implement the appropriate radiation response procedures as quickly as possible to resolve whether the radiation is legitimate or illicit. If unable to resolve incident prior to the individual(s) departing, agents will document the incident with all information gathered during the encounter.

6.2.2.2.4 Special procedures with respect to radiation detection alerts on Postal owned, leased, or contracted vehicles at checkpoints: Border Patrol personnel may briefly detain and inspect Postal vehicles at Border Patrol checkpoints. If Border Patrol detains the operator of a Postal vehicle or the Postal vehicle because radiation detection equipment has alerted on the vehicle, its occupants, or its contents, then notification shall immediately be made to a Postal Inspector. If Border Patrol breaks a seal attached by the Postal Service, Border Patrol personnel also will affix a Border Patrol seal to the locking mechanism of the cargo compartment of the Postal Service truck. In addition, if Border Patrol determines that circumstances exist that preclude a Postal vehicle from continuing to its next destination, then a Postal Inspector will be contacted immediately and apprised of the situation. Border Patrol shall follow existing procedures on contacting Postal Inspectors.

6.2.2.2.5 Special procedures with respect to radiation detection alerts on United States mail indicating potentially dangerous levels of radiation: If radiation detection equipment alerts on United States mail being transported in a Postal vehicle, and if the radiation alert indicates the existence of an unusual or potentially dangerous level of radiation that is reasonably suspected of posing an immediate danger to life or limb or an immediate and substantial danger to property, then, to the extent necessary to determine and eliminate the danger, the source of the radiation alert may be removed from Postal custody in the course of actions to establish a safety perimeter and identify the radiation source. Border Patrol personnel will also implement the appropriate radiation response procedures. In addition, Border Patrol personnel will complete a written and sworn statement of any detention or removal of mail matter, and the circumstances that prompted it, and promptly forward the statement to the Chief Postal Inspector.

6.2.2.2.6 Special procedures with respect to other radiation detection alerts on United States mail: If radiation detection equipment alerts on United States mail being transported in a Postal vehicle, and if the radiation alert does not indicate the existence of an unusual or potentially dangerous level of radiation that is reasonably suspected of posing an immediate danger to life or limb or an immediate and substantial danger to property, then Border Patrol personnel will follow existing procedures regarding an alert on mail matter by a canine at a checkpoint used in the course of detecting narcotics or other contraband.

6.2.2.3 Patrolling the Border, and Transportation Check Operations: If the CBP radiation detection equipment alerts while Border Patrol personnel are conducting the above-mentioned operations, the agent will report the radiation alert to their supervisor. All radiation detection alerts must be resolved, to the extent of the Border Patrol's legal authority to do so, by determining if the radiation source is legitimate or illicit.

6.2.2.3.1 During patrol operations, the agent will report the radiation alert to their supervisor in accordance with reporting requirements. If there are facts specific to the encounter which would support the legal authority for a warrantless border search or a search pursuant to another exception to the warrant requirement of the Fourth Amendment, then the individuals and/or conveyance may be detained and searched to the extent of that authority. Alternatively, if the radiation alert creates reasonable suspicion of criminal activity by the indication of the existence of an unusual or potentially dangerous level of radiation, or otherwise, then the source of the radiation alert may be temporarily detained to conduct a limited investigation so that the source of the alert can be localized, identified, and the appropriate radiation response procedures implemented.

6.2.2.3.2 If a radiation detection alert occurs during a roving patrol stop away from the border, and beyond the scope of border search authority, and before any immigration-related issues are resolved, the agent will report the alert to their supervisor in accordance with reporting requirements. During vehicle or marine environment stops, the agent will attempt to verify the radiation alert. Upon verification of the radiation alert, the agent will inquire whether the driver and any passengers are aware of any reason for the alert and ask for consent to search the conveyance for the radiation source. If consent is granted, the agent will use radiation detection

equipment to isolate and locate the radiation source within the conveyance. (Note: for easier localization of the source, the individuals should exit and step away from the vehicle.) If the radiation alert indicates the existence of an unusual or potentially dangerous level of radiation, the agent may continue to detain the source of the radiation to establish a safety perimeter, identify the radiation source, and implement the appropriate radiation response procedures.

6.2.2.3.3 If consent is not granted, the agent will conduct a non-intrusive check using radiation detection equipment (do not open or enter the conveyance). If the radiation alert indicates the existence of an unusual or potentially dangerous level of radiation, the agent may continue to detain the source of the radiation and establish a safety perimeter (see 6.4.2), identify the radiation source, and implement the appropriate radiation response procedures.

6.2.2.3.4 If a radiation alert occurs during a transportation check and before any immigration-related issues are resolved, the agent will report the radiation alert to their supervisor in accordance with reporting requirements. In the course of this immigration inspection, the agent will attempt to verify the radiation alert. Upon verification of the radiation alert, the agent will inquire whether the driver and any passengers are aware of any reason for the alert and ask for consent to search the property that contains the radiation source. If consent is granted and radiation detection equipment is available the agent will use the radiation detection equipment to isolate and locate the radiation source. If the radiation alert indicates the existence of an unusual or potentially dangerous level of radiation, the agent may continue to detain the source of the radiation in the course of actions to establish a safety perimeter, identify the radiation source, and implement the appropriate radiation response procedures.

6.2.2.3.5 If consent is not granted, the agent will conduct a non-intrusive check using radiation detection equipment. If the radiation alert indicates the existence of an unusual or potentially dangerous level of radiation, the agent will establish a safety perimeter (see 6.4.2), identify the radiation source, and implement the appropriate radiation response procedures.

6.3 RESPONSE PROCEDURES - NEUTRON ALARM

6.3.1 For neutron alerts (see Appendix 2 for neutron sources), the officer or agent must determine the source of the alert. (NOTE: Neutrons are not used in medical procedures, so a neutron alert will, in most cases, create reasonable suspicion of criminal activity, until it is resolved). Officers or agents will notify their supervisor of any neutron alarm.

6.3.2 A RIID can be used to confirm the presence of neutrons detected by the RPM. An alert that occurs after a secondary pass through a RPM also can confirm the presence of neutrons. If a CBP officer at the port is unable to locate or identify the source of the radiation alert, the CBP officer will open conveyance doors, if it is *deemed safe* by LSS, to facilitate obtaining a reading on the RIID.

6.3.3 A RIID will be used to confirm the presence of neutrons detected within Border Patrol operations. Additionally, any mobile detection equipment capable of detecting neutrons and readily available may also be used to verify the presence of neutrons.

6.3.4 LSS assistance must be contacted through the 24-hour National Law Enforcement Communications Center (NLECC) emergency number at 1-800-973-2867. The calling officers or agents must clearly inform NLECC that they require radiation technical advice from LSS and will be asked to provide information from the Radioactive Material Technical Advice Questionnaire (Appendix 1).

6.3.5 For safety and security purposes, all radiation neutron referrals to LSS will be treated as potential threats. All referrals will be directed to an isolated area when possible. The responding officer or agent will ensure that all personnel are removed from the established safety perimeter.

6.3.6 If LSS determines that the radiation neutron source is legitimate, the LSS scientist will relay this information back to the initiating officer or agent. The incident will be documented and entered into PRIDE (where available), a Treasury Enforcement Communications System (TECS) IOIL or a significant incident report (SIR) to record resolution of the neutron alarm. The narrative prepared by the officer or agent must include the readings from the radiation detection equipment (i.e. PRD, RIID, etc.), isotope identification from the RIID, commodity and disposition of the incident. The officer or agent will release the conveyance if all other entry or document requirements have been met and all other law enforcement concerns have been satisfied.

6.3.7 If LSS determines that a potential radiological threat exists or if the officers or agents on the scene suspect criminal activity, the officers or agents will notify the appropriate contacts. LSS will coordinate to send radiation emergency response resources to the scene of the incident in order to determine the specific level of threat and response based on LSS established protocols.

6.3.8 Additionally, if LSS determines that a potential radiological threat exists or if the officers or agents on the scene suspect criminal activity, the following notification process will be followed:

6.3.8.1 LSS will notify the Situation Room if further technical reachback or emergency radiation response resources are deployed.

6.3.8.2 The officer or agent will notify the shift supervisor.

6.3.8.3 The shift supervisor will initiate notifications to appropriate field managers, and the local ICE duty agent via (b)(7)(E) and the (b)(7)(E) (b)(7)(E)

6.3.8.4 The Field Operations Office/Sector will contact the appropriate headquarters OFO/OBP Field Liaison officer.

6.3.8.5 Any hazardous situation or criminal activity associated with the radiation detection program will be reported by the port/station to CBP Headquarters via the Situation Room at (b)(7)(E) or (b)(7)(E) or (b)(7)(E)

6.4 RESPONSE PROCEDURES - GAMMA ALARM

6.4.1 For gamma alerts at the port, the CBP officer must determine the source of the radiation alert. For gamma alerts by Border Patrol or A&M agents outside the port or beyond the authority to perform a border search, such determinations will be limited to the legal authority of the agent to continue the detention for these purposes.

6.4.2 If otherwise authorized to detain the source and to determine the nature of the alert, the officer or agent will use a PRD to ensure a safe distance is maintained from the radiation source. The RIID will be used to locate and identify the source of radiation. If the officer or agent is unable to locate or identify the source, the officer or agent will take a 5-7 minute RIID reading and call LSS. Based upon identification readings and consultation with LSS, an officer at the port may open conveyance doors, if it is *deemed safe*, to get closer to the radiological source and obtain a reading on the RIID.

6.4.2.1 If a reading of "9" appears on the PRD, the officer or agent must back away from the radiation source until the PRD reads "8", and at this point, the officer or agent should establish a perimeter around the radiation source.

6.4.2.2 If a reading of "8" appears on the PRD at a distance of less than 10 feet, then the officer or agent may assume that it is safe to operate in the area where the PRD reads a "9", for up to 3 minutes. (NOTE: Within the ten-foot perimeter, radiation exposure has been categorized as minimal. The time limit for an examination is established for precautionary purposes).

6.4.2.3 If a reading of "9" is maintained on the PRD beyond ten feet from the radiation source, a closer examination *is not* to be conducted. Instead, the officer/agent will contact LSS. The officer/agent should be prepared to provide LSS with information from the Radioactive Material Technical Advice Questionnaire (Appendix 1).

6.4.3 If, after reviewing and verifying documentation or obtaining advice from LSS, the officer or agent is satisfied that the radioactive source is consistent with the Common Innocent Radiation Sources (Appendix 2) and does not pose a health or safety concern for the public, the officer/agent may release the conveyance, driver, and any passenger(s) if all other entry or document requirements have been met and all other law enforcement concerns have been satisfied. If the incident is referred to LSS, the incident will be properly documented and entered into PRIDE (where available), TECS IOIL or a SIR to record resolution of the gamma alarms. The narrative prepared by the officer/agent must include readings from the radiation detection equipment (i.e., PRD, RIID, etc.), isotope identification from the RIID, commodity and disposition of the incident.

6.4.4 If the documentation, radiation detection equipment readings and inspection are not consistent with the Common Innocent Radiation Sources (Appendix 2), the officer/agent must

obtain guidance through the 24-hour (b)(7)(E)

(b)(7)(E) Calling officers/agents must clearly inform the NLECC that they require Radiation Technical Advice from LSS and be prepared to provide information from the Radioactive Material Technical Advice Questionnaire (Appendix 1).

6.4.5 If LSS determines that a possible radiological threat exists or if the officers or agents on the scene suspect criminal activity, the officers or agents will secure and isolate the source of the radiation alert. LSS will coordinate to send radiation emergency response resources to the scene of the incident in order to determine the specific level of threat and response.

6.4.6 Additionally, if LSS determines that a possible radiological threat exists or if the officers or agents on the scene suspect criminal activity, the following notification process will be followed:

6.4.6.1 LSS will notify the Situation Room if further technical reachback or emergency radiation response resources are deployed.

6.4.6.2 The officer or agent will notify the shift supervisor.

6.4.6.3 The shift supervisor will initiate notifications to appropriate field managers, and the local ICE duty agent via (b)(7)(E) and the (b)(7)(E) (b)(7)(E)

6.4.6.4 The Field Operations Office or Sector will contact the appropriate headquarters OFO or OBP Field Liaison officer.

6.4.6.5 Any hazardous situation or criminal activity associated with the radiation detection program will be reported by the port/station to CBP Headquarters via the (b)(7)(E) (b)(7)(E) or (b)(7)(E)

6.5 RESPONSE PROCEDURES - LSS TECHNICAL RESPONSE PROTOCOL

6.5.1 In the event of a neutron alert, sustained PRD reading of "9" beyond a distance of 10 feet from the radiation source, unidentified radiation source, or any other situation in which an officer or agent requires guidance, the officer or agent must obtain technical assistance from LSS through the 24-hour (b)(7)(E). This number will connect the officer or agent to the LSS scientist who is on-call to address technical questions associated with the radiation alert.

6.5.2 During the call, the officer or agent will relay the specific incident information to the LSS scientist. The officer or agent will be prepared to provide all information from the Radioactive Material Technical Advice Questionnaire (Appendix 1) and, if requested by LSS, the manifest/shipping documents.

6.5.3 Based on the information provided, the LSS scientist will contact the appropriate agencies to verify licensing and shipping requirements, analyze information provided by the officer or agent and review any other pertinent shipping or manifest documentation to make an

assessment of whether the radiation source is legitimate (i.e., medical isotope, naturally occurring radiation material (NORM), material commonly used within industrial applications, etc.) or if further technical advice and/or response are necessary. As part of the technical assessment, the officer or agent may be required to send electronically spectral data from the RIID to LSS. If this transmission is required, LSS will provide instructions to the officer or agent on the procedure to complete the transmission.

6.5.4 If the radiation source is determined to be legitimate, the LSS scientist will relay this assessment back to the initiating officer or agent. The incident will be documented and entered into (b)(7)(E) to record resolution of the response. The narrative completed by the officer or agent must include the readings from the radiation detection equipment (i.e. PRD, RIID, etc.), isotope identification from the RIID, commodity and disposition of the incident. If all other entry or document requirements have been met and all other law enforcement concerns have been satisfied, then the officer or agent can release the conveyance, driver and any passenger(s).

6.5.5 If further technical advice is warranted, the LSS scientist handling the incident will contact the nuclear experts from the DHS Secondary Reachback Program for further technical guidance.

6.5.5.1 If LSS experts in consultation with outside experts determine the radiation source is legitimate, the LSS scientist will relay this assessment back to the initiating officer or agent. The incident will be documented and entered into PRIDE (where available), (b)(7)(E) to record resolution of the guidance. The narrative prepared by the officer or agent must include the readings from the radiation detection equipment (i.e. PRD, RIID, etc.), isotope identification from the RIID, commodity and disposition of the incident. If all other entry or document requirements have been met and all other law enforcement concerns have been satisfied, then the officer/agent can release the conveyance, driver and any passenger(s).

6.5.5.2 If LSS experts, in consultation with outside experts, determine the radiation source warrants further action or is an immediate threat, the LSS scientist will contact the initiating officer or agent and advise the officer or agent to secure and isolate the radiation source and await further instructions. The officer or agent will immediately notify port/sector management through their supervisor who will then notify the local U.S. Immigration and Customs Enforcement duty agent via (b)(7)(E). Appropriate enforcement action will be taken in accordance with this Directive.

6.5.5.3 LSS, in coordination with DHS, will also contact all the appropriate interagency organizations (in accordance with their Implementation Plan) that will be able to assist CBP with on-site assessments of the discovered materials and determine the specific radiation source as well as the level of threat and disposition options necessary to return CBP operations to normal.

6.6 RESPONSE PROCEDURES – SPECIFIC EVENTS

6.6.1 If upon radiation detection, a HAZMAT event (including a spill or leak) has occurred or is suspected, the local HAZMAT response team must be contacted immediately. Any additional CBP notification guidelines should also be followed, including notification to the local ICE duty

agent via (b)(7)(E) and the CBP Situation Room at (b)(7)(E) or (b)(7)(E)

6.6.2 In instances where a radiation alarm occurs in conjunction with persons or items entitled to diplomatic privileges, in accordance with Customs Directive (b)(7)(E) dated January 5, 2002, the following guidance shall be used:

6.6.2.1 Unexplainable radiation alerts associated with a person legitimately traveling through a port of entry under diplomatic status will be treated as "serious reason to believe" that prohibited materials or materials other than for personal use are present on the person or in their belongings. Advise the individual of the alert and the need to resolve the alert, and request consent to conduct the examination in the individual's presence or in the presence of a representative of the foreign government concerned. If the individual refuses to give consent to search, immediately notify the Port Director, through the chain of command and the Department of State Command Center at (b)(7)(E)

6.6.2.2 If a radiation alert occurs on a "diplomatic pouch," box, pallet, vehicle, container, etc. with diplomatic material/status, apprise the accompanying foreign mission representative of the need to resolve the alert by performing a non-intrusive scan of the item with the RIID. If the individual refuses to give consent to the scan, immediately notify the Port Director, through the chain of command and coordinate with the Department of State. The Department of State Command Center at (b)(7)(E) should be notified immediately in these instances.

6.6.2.3 If a radiation alert occurs on a "diplomatic pouch," box, pallet, container, etc with diplomatic material/status that is not accompanied and after consultation with LSS the RIID scan shows discrepancies between the manifested item and identified isotope, the shipment will not be cleared and the associated embassy or foreign mission will be notified of the alert in order to request consent to examine the item, or for it to be immediately exported. The Department of State Command Center at (b)(7)(E) should be notified immediately in these instances.

6.6.2.4 In all instances where the Department of State Command Center is notified, the International Organizations and Agreements Branch should also be notified through the chain of command at (b)(7)(E) (9:00am-5:00pm EST).

6.6.3 If a conveyance runs the port or checkpoint after activating a radiation detection alarm, the officer or agent should follow existing policy on how to respond to this situation. In addition, the officer/agent must immediately notify local law enforcement agencies that the conveyance ran the port or checkpoint and must give a complete description of the conveyance and its occupants. Also, the officer or agent must advise local law enforcement that the conveyance may possess radioactive material and that necessary precaution should be taken.

6.7 RESPONSE PROCEDURES – EVENT DOCUMENTATION

6.7.1 All radiation alerts referred to LSS will be recorded completely and accurately on the Radioactive Material Technical Advice Questionnaire (Appendix 1) and entered into PRIDE (where available), (b)(7)(E) to record the incident. The narrative prepared by the

officer or agent must include the readings from the radiation detection equipment, isotope identification from the RIID, commodity and disposition of the incident.

6.7.2 Situations that involve seizure, criminal or suspected illegal activity associated with radiation detection, and when LSS contacts Secondary Reachback will be reported to the CBP Situation Room via a SIR based on Directive (b)(7)(E) Reporting guidance.

6.7.3 Notification Procedures to Destination International Mail Branches (IMB): CBP personnel assigned at Northern border land POE shall notify the destination IMB when radiation portal alerts are detected on mail trucks destined to an international mail processing facility. When notifying CBP/IMB management, the following information should be included:

- Incident Number (if applicable)
- Trailer/Tractor Number
- CBP Seal Number (if applicable)
- Radiation Type and Source
- Status (e.g. release, detained, refusal)

Notifying destination CBP/IMB management will prevent the duplication of enforcement examinations on the receiving end, allowing the mail to proceed through the CBP clearance process without further delay.

6.8 RESPONSE PROCEDURES – EQUIPMENT FAILURE

6.8.1 In the event a radiation detection device fails or is perceived to have failed to function properly, the officer or agent would call the Enforcement Technology Program Service Desk at 1-866-633-6724.

7 **NO PRIVATE RIGHTS CREATED.** This document is an internal policy statement of CBP and does not create or confer any rights, privileges, or benefits for any person or party.

8 **ATTACHMENTS.**

8.1 Appendix 1: Radioactive Material Technical Advice Questionnaire

8.2 Appendix 2: Common Innocent Radiation Sources

(b)(6); (b)(7)(C)

Commissioner
U.S. Customs and Border Protection

**APPENDIX 1
RADIOACTIVE MATERIAL TECHNICAL ADVICE
QUESTIONNAIRE**

Location:Port/Station Code:_____ Date:_____ Time:_____

Reporting Officer/Agent:_____ Phone:_____
Fax:_____

Radiation Portal Monitor (RPM) Alert Information:

Radiation Alarm: Gamma or Neutron

Has the source been located? Yes or No

If yes, location of detection: _____

Has the source been isolated? Yes or No

Gamma Alert:

PRD reading: _____

Has PRD reading of "9" been achieved? Yes or No

If yes, PRD reading at 10 feet: _____

RIID Gamma Counts Per Second (cps): _____

RIID Dose Rate (\square R/h or mR/h): _____

Neutron Alert:

RIID Neutron Counts Per Second (cps): _____

Identification:

Did the RIID identify the source? Yes or No (Unknown)

Isotope Identification(s): _____

**APPENDIX 1
(cont.)****Passenger Information:**

Medical Treatment (if known): _____

Date of Treatment: _____ Medical Isotope Used (if known): _____

Cargo Information:

Entry #: _____ Container #: _____

Manifested Commodity: _____

Manifest or Placarding Information: _____

Shipper Name and Address: _____
_____Consignee Name and Address: _____
_____**LSS Assistance:**

Contact Name: _____

Number: _____ Fax Number: _____

LSS Identification: _____

LSS Recommendation: _____

NRC/Agreement-State Radioactive Material License:Does the source require a NRC/Agreement-State Radioactive Material License to be verified?
Yes or No or Not Applicable

NRC license number (if known): _____

TECS (IOIL) #: _____

SIR #: _____

~~Official Use Only~~

APPENDIX 2 COMMON INNOCENT RADIATION SOURCES AND MAJOR ISOTOPES OF CONCERN

- | | |
|--|---------------------------------------|
| • Americium-241 (Am-241) – IND | • Neptunium-237 (Np-237) – SNM |
| • Americium/Beryllium (Am/Be) – IND*** | • Palladium-103 (Pd-103) – MED |
| • Barium-133 (Ba-133) – IND | • Plutonium-239 (Pu-239) – SNM |
| • Californium-252 (Cf-252) – IND*** | • Polonium-210 (Po-210) – IND |
| • Cesium-137 (Cs-137) – IND | • Polonium/Beryllium (Po/Be) – IND*** |
| • Cobalt-57 (Co-57) – IND | • Potassium-40 (K-40) – NAT |
| • Cobalt-60 (Co-60) – IND | • Radium-226 (Ra-226) – NAT, IND |
| • Copper-64 (Cu-64) – MED | • Radium/Beryllium (Ra/Be) – IND*** |
| • Europium-152 (Eu-152) – MED, IND | • Samarium-153 (Sm-153) – MED |
| • Europium-154 (Eu-154) – MED, IND | • Strontium-85 (Sr-85) – MED |
| • Fluorine-18 (F-18) – MED | • Strontium-89 (Sr-89) – MED |
| • Gallium-67 (Ga-67) – MED | • Strontium-90 (Sr-90) – IND |
| • Germanium-68 (Ge-68) – MED | • Technetium-99m (Tc-99m) – MED |
| • Iodine-123 (I-123) – MED | • Thallium-201 (Tl-201) – MED |
| • Iodine-125 (I-125) – MED | • Thorium-232 (Th-232) – NAT, IND |
| • Iodine-131 (I-131) – MED | • Tungsten (W-187) – IND |
| • Indium-111 (In-111) – MED | • Uranium-233 (U-233) – SNM |
| • Iridium-192 (Ir-192) – IND | • Uranium-235 (U-235) – SNM |
| • Krypton-85 (Kr-85) – IND | • Uranium-238 (U-238) – NAT/IND |
| • Lutetium-176 (Lu-176) – NAT | • Xenon-133 (Xe-133) – MED |
| • Lutetium-177 (Lu-177) – MED | • Yttrium-88 (Y-88) – MED |
| • Manganese-54 (Mn-54) – IND | • Yttrium-90 (Y-90) – MED |
| • Molybdenum-99 (Mo-99) – MED | • Zinc-65 (Zn-65) – MED |

*NAT – Naturally-Occurring

IND – Industrial-Use

IND*** - ***Indicates Neutron-emitting IND source

*MED – Medical-Use

SNM – Special Nuclear Material

* Common innocent radiation sources fall under these categories. Medical isotopes may be present within a person's body as a result of a nuclear medical treatment or in a cargo shipment destined for a medical facility. Natural or NORM isotopes may be present in commercial products as listed below.

Items that May Contain Naturally-Occurring Radioactive Materials (NORM)

- Agricultural products (e.g., fruits & leafy vegetables; tobacco, etc.) (K-40)

- Bananas, large quantities (K-40)
- Antique items including: Ceramic-glaze products in orange, red, or yellow; e.g., antique cups & plates, decorative floor tiles, jewelry, pottery, and Vaseline glass (emerald green glass used in some antique cups, plates, etc.) (Natural uranium/thorium)
- Camera lenses and any high-quality optical lens system (natural uranium/thorium)
- Radio-Luminescent Products (Radium paint): Watches, clocks, compasses, & instrument gauges, World War 2 era (Ra-226)
- Dental ceramics (NORM)
- Irradiated gemstones (Example: blue topaz) (Sc-46, Ta-182, Cs-134, etc)
- Lantern mantles (natural Th-232)
- Polishing powders and oxides (NORM, La-138, Lu-176)
- Empty or full propane tanker trucks (from radioactive deposits on tanker's interior walls) (Ra-226)
- Smoke detectors (Am-241)
- Television sets - CRT type (Th-232)
- Thoriated aluminum (an alloy containing Th-232)
- Thoriated tungsten arc-welding electrodes (often labeled Thoriated welding rods)
- Uranium ore samples
- Airplanes and Aircraft parts
 - may contain thorium (Th-232), depleted uranium (U-238) or tungsten (W-187) in the turbine blades, or counter-weights in the wings and Th-232 in engines.
 - Non-destructive testing of aircraft turbine blades using neutron irradiation may result in short lived W-187.
- Municipal waste (may contain naturally occurring or medical isotopes)
- Building materials (K-40, Ra-226, Th-232)
 - Marble
 - Concrete
 - Monzanite Sand
 - Feldspar
 - Sandstone
 - Slate
 - Granite
 - Clay/Ceramics
 - Bauxite (aluminum ore)
 - Fertilizer